

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

MATTHEW MCNEVIN,)	
)	
Plaintiff,)	
)	
v.)	Case No. 1:21-CV-270
)	
LT. WIA NT, et al,)	
)	
Defendants.)	

MEMORANDUM ORDER

This action was received by the Clerk of Court on September 30, 2021. The matter was referred to United States Magistrate Judge Richard A. Lanzillo, for report and recommendation in accordance with the Magistrate Judges Act, 28 U.S.C. § 636(b)(1), and Rules 72.1.3 and 72.1.4 of the Local Rules for Magistrate Judges.

Plaintiff, an inmate acting pro se, raises claims under the Eighth Amendment, as well as state law tort claims of intentional infliction of emotional distress and negligence. As Defendants in his amended complaint, Plaintiff names Lt. Wiant, Lt. Dietrich, and Sgt. Winger along with three John Doe.

The named Defendants filed a partial motion to dismiss. ECF No. 22.


On July 20, 2022, Magistrate Judge Lanzillo issued a Report and Recommendation recommending that the partial motion to dismiss be granted in part and denied in part. ECF No. 30. More specifically, he recommended that Plaintiff's state law claims be dismissed and that the motion to dismiss be denied in all other respects. No objections have been filed.

Regardless of whether timely objections are made, district courts may accept, reject, or modify—in whole or in part—the magistrate judge's findings or recommendations. 28 U.S.C. § 636(b)(1); Local Rule 72(D)(2). After *de novo* review of the complaint and documents in the case, together with the report and recommendation, the following order is entered:

AND NOW, this 11th day of August 2022;

IT IS ORDERED that the partial motion to dismiss [ECF No. 22] is granted in part and denied in part. The motion is granted as to Plaintiff's state law claims of intentional infliction of emotional distress and negligence. The motion is denied as to the Plaintiff's allegations against Defendant Wiant.

IT IS FURTHER ORDERED that the report and recommendation of Magistrate Judge Lanzillo, issued on July 30, 2022 [ECF No. 30] is adopted as the opinion of the court.


/s/ Susan Paradise Baxter
SUSAN PARADISE BAXTER
United States District Judge